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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/695,771

10/30/2003

Richard S. Roark

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01/06/2005

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EXAMINER

MCCALL, ERIC SCOTT

ART UNIT

PAPER NUMBER

2855

DATE MAILED: 01/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/695,771 | | ROARK, RICHARD S. | |
| | Examiner | | Art Unit | |
| | Eric S. McCall | | 2855 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10/30/03</u> . | 6) <input type="checkbox"/> Other: ____ |

MOUNTABLE SOUND PRESSURE LEVEL METER

FIRST OFFICE ACTION

ABSTRACT

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because of the use of the legal phraseology "means". Correction is required. See MPEP § 608.01(b).

SPECIFICATION

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which the Applicant may become aware of in the specification.

CLAIMS

35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knowd (4,257,273) in view of Sokol (4,648,572).

With regards to independent claim 1, Knowd teaches an automotive sound pressure level (SPL) meter (Fig. 1) that is temporarily mountable in a motor vehicle, comprising:

a SPL meter (10) including a housing (12), a pressure sensor (36), a mode selector input device (24-34), and a display (22), wherein the SPL meter is configured for use within a motor vehicle to measure sound pressure levels within the motor vehicle (col. 1, lines 5-25; However, the use of the SPL meter to measure sound pressure levels within a vehicle, as claimed, is interpreted as merely an intended use of the SPL meter because a SPL meter as taught by the prior art will be able to operate in any environment to measure sound pressure levels including that of within a motor vehicle).

However, Knowd fails to teach a temporary mounting mechanism coupled to the housing of the SPL meter, wherein the temporary mounting mechanism affixes the SPL meter to a surface within the motor vehicle, such that the SPL meter is selectively removable from the motor vehicle.

Sokol does teach a temporary mounting mechanism coupled to the housing of a meter, wherein the temporary mounting mechanism affixes the meter to a surface within the motor vehicle, such that the meter is selectively removable from the motor vehicle.

As a result, it would have been obvious to one having ordinary skill in the art armed with said teachings to employ the temporary mounting mechanism coupled to the housing of the meter of the Sokol teaching to affix the SPL meter as taught by Knowd to a surface within the motor vehicle, such that the SPL meter is selectively removable from the motor vehicle.

The motivation being that since Knowd makes the comparison of the SPL meter to a vehicle mounted radar detector (col. 1, lines 5-25) and radar detectors or other devices are very well known to be removably mounted to a surface within a motor vehicle as taught by Sokol, the teaching combination suggests that the taught SPL meter may be the “like device” as taught by Sokol and thus be mounted using the support bracket therein.

With regards to claim 2, Knowd teaches the pressure sensor (36) internal to the SPL meter.

With regard to claims 3-6, 8, and 9, Knowd suggests the pressure sensor containing a diaphragm because the pressure sensor is a transducer but fails to teach the specifics of such a diaphragm.

Nonetheless, the use of a diaphragm having a material or dimensions as claimed would have been obvious to one having ordinary skill in the art armed with said teaching.

The motivation being that the materials and the dimensions as claimed are common materials/dimensions used in constructing a diaphragm for a pressure sensor of the size as taught.

With regards to claim 7, Knowd teaches the housing of the SPL meter including a single sound/pressure hole for receiving acoustic energy detectable by the pressure sensor (Fig. 1).

With regards to claim 10, Knowd shows the pressure sensor being a microphone (Fig. 1).

With regard to claims 11-13, Sokol suggests a bracket (26) pivotable relative to the housing (and thus bracket portion 22) as claimed (col. 2, lines 64-68).

With regards to claim 14, Sokol discloses a temporary mounting mechanism comprises a non-pivoting, clip-like bracket (20) coupled to the housing, wherein the clip-like bracket is suitable for temporarily mounting the meter on a sun visor within the motor vehicle as claimed because the Applicant has not defined within the claim the material from which the sun visor is

Art Unit: 2855

made and thus if the sunvisor is of a material (ie. plastic) to which the suction cups adhere, the bracket will be suitable for temporarily mounting the meter on a sun visor as claimed.

With regards to claim 15, Sokol teaches the loop and hook fastener (36) as claimed.

With regards to claim 16, the above teaching combination fails to teach the temporary mounting mechanism comprising a magnetic material coupled to the housing.

However, it would have been obvious to one having ordinary skill in the art to use a magnetic material in addition to or in place of the taught loop and hook fastener.

The motivation being that magnets are well known and common substitutes for loop and hook fasteners because they provide ample removable securement.

With regards to claim 17, Sokol clearly teaches the claimed subject matter thereof.

With regard to claims 18, 19, and 32, the above teaching combination suggests the claimed subject matter thereof.

With regards to claim 20, Knowd suggests the claimed subject matter thereof (22).

With regard to claims 21-26, Knowd suggests the claimed subject matter thereof (Fig. 1).

With regard to claims 27-29, Sokol suggests the claimed subject matter in the figures thereof.

With regard to claims 30 and 31, Knowd suggests a mode selector input device including a maximum mode selector that controls the display to indicate (and store, 60) a maximum measured decibel level (col. 1, lines 54-60).

With regards to independent claim 33, said claim is a method claim which closely parallels that of the independent apparatus claim 1. Thus, claim 33 is rejected for the same reasons as claim 1.

With regards to claim 34, see the above response to claim 12.

With regards to claim 35, see the above response to claim 14.

With regards to claim 36, due to the use of the alternative language, see the above response to claim 15.

With regard to claims 37 and 38, the above teaching combination clearly suggests the claimed subject matter thereof.

Art Unit: 2855

With regard to claims 39-43, Knowd suggests the claimed subject matter thereof.

With regard to claims 44-46, the above teaching combination fails to teach the claimed subject matter thereof.

However, it would have been obvious to one of ordinary skill in the art to determine the maximum sound pressure level by the comparison as claimed.

The motivation being that by comparing the readings, some sense can be made out of the maximum readings since the readings by themselves are relative and mean nothing without a point of reference unless a comparison can be made to other readings.

RELEVANT ART

The Applicant's attention is directed to the enclosed "PTO-892" form for the prior art made of record and not relied upon but considered relevant to the state of the art of the Applicant's disclosure.


CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

Art Unit: 2855

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eric S. McCall
Primary Examiner
Art Unit 2855
Jan. 04, 2005